

HOUSE BILL No. 1903

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-33-13; IC 36-7.

Synopsis: Wagering tax. Increases the riverboat wagering tax by 1% on each bracket for each month that a riverboat is not operating in Orange County. Authorizes a joint historic district located in French Lick and West Baden Springs. Distributes 50% of the tax revenues attributable to the additional rate to the joint historic district's historic preservation commission. Divides the remaining tax revenues attributable to the additional rate equally among Orange County, French Lick, West Baden Springs, and the tourism commissions of French Lick and West Baden Springs.

Effective: July 1, 2003.

Denbo, Saunders

January 23, 2003, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1903

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-33-13-1, AS AMENDED BY P.L.192-2002(ss),
2 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 1. (a) This section does not apply to a riverboat
4 that has implemented flexible scheduling under IC 4-33-6-21.

5 (b) **Except as provided in subsection (c)**, a tax is imposed on the
6 adjusted gross receipts received from gambling games authorized under
7 this article at the rate of twenty-two and five-tenths percent (22.5%) of
8 the amount of the adjusted gross receipts.

9 (c) **Beginning July 1, 2003, the tax rate imposed under this**
10 **section is twenty-three and five-tenths percent (23.5%) if a**
11 **riverboat licensed under this article is not operating on the first**
12 **day of each month in a county having a population of more than**
13 **nineteen thousand three hundred (19,300) but less than twenty**
14 **thousand (20,000). If a riverboat licensed under this article**
15 **commences operations in the county, the tax rate imposed under**
16 **this section is reduced to the amount set forth in subsection (b)**
17 **beginning on the first day of the month following the date the**



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1 **riverboat operations commence in the county.**

2 (d) The licensed owner shall remit the tax imposed by this chapter
3 to the department before the close of the business day following the day
4 the wagers are made.

5 ~~(d)~~ (e) The department may require payment under this section to be
6 made by electronic funds transfer (as defined in IC 4-8.1-2-7(e)).

7 ~~(e)~~ (f) If the department requires taxes to be remitted under this
8 chapter through electronic funds transfer, the department may allow the
9 licensed owner to file a monthly report to reconcile the amounts
10 remitted to the department.

11 ~~(f)~~ (g) The department may allow taxes remitted under this section
12 to be reported on the same form used for taxes paid under IC 4-33-12.

13 SECTION 2. IC 4-33-13-1.5, AS ADDED BY P.L.192-2002(ss),
14 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2003]: Sec. 1.5. (a) This section applies only to a riverboat
16 that has implemented flexible scheduling under IC 4-33-6-21.

17 (b) **Except as provided in subsection (c)**, a graduated tax is
18 imposed on the adjusted gross receipts received from gambling games
19 authorized under this article as follows:

20 (1) Fifteen percent (15%) of the first twenty-five million dollars
21 (\$25,000,000) of adjusted gross receipts received during the
22 period beginning July 1 of each year and ending June 30 of the
23 following year.

24 (2) Twenty percent (20%) of the adjusted gross receipts in excess
25 of twenty-five million dollars (\$25,000,000) but not exceeding
26 fifty million dollars (\$50,000,000) received during the period
27 beginning July 1 of each year and ending June 30 of the following
28 year.

29 (3) Twenty-five percent (25%) of the adjusted gross receipts in
30 excess of fifty million dollars (\$50,000,000) but not exceeding
31 seventy-five million dollars (\$75,000,000) received during the
32 period beginning July 1 of each year and ending June 30 of the
33 following year.

34 (4) Thirty percent (30%) of the adjusted gross receipts in excess
35 of seventy-five million dollars (\$75,000,000) but not exceeding
36 one hundred fifty million dollars (\$150,000,000) received during
37 the period beginning July 1 of each year and ending June 30 of
38 the following year.

39 (5) Thirty-five percent (35%) of all adjusted gross receipts in
40 excess of one hundred fifty million dollars (\$150,000,000).

41 The tax rates imposed under this section apply to adjusted gross
42 receipts received beginning the date flexible scheduling is implemented

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under IC 4-33-6-21.

(c) Beginning July 1, 2003, the tax rates imposed under this section are as follows if a riverboat licensed under this article is not operating on the first day of each month in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000):

(1) Sixteen percent (16%) of the first twenty-five million dollars (\$25,000,000) of adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year.

(2) Twenty-one percent (21%) of the adjusted gross receipts exceeding twenty-five million dollars (\$25,000,000) but not exceeding fifty million dollars (\$50,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(3) Twenty-six percent (26%) of the adjusted gross receipts exceeding fifty million dollars (\$50,000,000) but not exceeding seventy-five million dollars (\$75,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(4) Thirty-one percent (31%) of the adjusted gross receipts exceeding seventy-five million dollars (\$75,000,000) but not exceeding one hundred fifty million dollars (\$150,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(5) Thirty-six percent (36%) of all adjusted gross receipts exceeding one hundred fifty million dollars (\$150,000,000).

If a riverboat licensed under this article commences operations in the county, the tax rates imposed under this section are reduced to the amounts set forth in subsection (b) beginning on the first day of the month following the date the riverboat operations commence in the county.

(d) The licensed owner shall remit the tax imposed by this chapter to the department before the close of the business day following the day the wagers are made.

~~(d)~~ (e) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

~~(e)~~ (f) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensed owner to file a monthly report to reconcile the amounts remitted to the department.

~~(f)~~ (g) The department may allow taxes remitted under this section



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to be reported on the same form used for taxes paid under IC 4-33-12.

SECTION 3. IC 4-33-13-5, AS AMENDED BY P.L.192-2002(ss), SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars (\$33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (d).

(2) After tax revenues are set aside under subdivision (1), the tax revenues attributable to the additional tax rates imposed under section 1(c) or 1.5(c) of this chapter shall be set aside and distributed as follows:

(A) Fifty percent (50%) to the historic preservation commission established by IC 36-7-11-4.5.

(B) Ten percent (10%) to a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(C) Ten percent (10%) to a town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200) located in a county described in clause (B).

(D) Ten percent (10%) to a town having a population of less than one thousand five hundred (1,500) located in a county described in clause (B).

(E) Ten percent (10%) to the tourism commission of a town described in clause (C).

(F) Ten percent (10%) to the tourism commission of a town described in clause (D).

(3) Subject to subsection (b), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

(B) in equal shares to the counties described in IC 4-33-1-1(3), in the case of a riverboat whose home dock is on Patoka Lake;

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or

(C) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A) or a county described in clause (B).

~~(3)~~ **(4)** Subject to subsection (c), the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund.

(b) For each city and county receiving money under subsection ~~(a)(2)(A)~~ **(a)(3)(A)** or ~~(a)(2)(C)~~ **(a)(3)(C)**, the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat wagering taxes that:

- (1) exceeds a particular city or county's base year revenue; and
- (2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

(c) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the property tax replacement fund under subsection ~~(a)(3)~~ **(a)(4)** to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars (\$250,000,000):

- (1) Surplus lottery revenues under IC 4-30-17-3.
- (2) Surplus revenue from the charity gaming enforcement fund under IC 4-32-10-6.
- (3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the property tax replacement fund under subsection ~~(a)(3)~~ **(a)(4)** to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the property tax replacement fund from the transfers under subsection ~~(a)(3)~~ **(a)(4)** for the state fiscal year.

(d) Before August 15 of 2003 and each year thereafter, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing

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under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. The county treasurer shall distribute the money received by the county under this subsection as follows:

(1) To each city located in the county according to the ratio the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(e) Money received by a city, town, or county under subsection (d) may be used only:

(1) to reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5);

(2) for deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for additional credits for property tax replacement in property tax increment allocation areas;

(3) to fund sewer and water projects, including storm water management projects; or

(4) for police and fire pensions.

However, not more than twenty percent (20%) of the money received under subsection (d) may be used for the purpose described in subdivision (4).

(f) Before September 15 of 2003 and each year thereafter, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the property tax replacement fund. The amount of the supplemental distribution is equal to the difference between the entity's base year revenue (as determined under IC 4-33-12-6) and the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6.

SECTION 4. IC 36-7-11-4.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.3. (a) An ordinance



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that establishes a historic preservation commission under section 4 or 4.5 of this chapter may authorize the staff of the commission, on behalf of the commission, to grant or deny an application for a certificate of appropriateness.

(b) An ordinance adopted under this section must specify the types of applications that the staff of the commission is authorized to grant or deny. The staff may not be authorized to grant or deny an application for a certificate of appropriateness for the following:

- (1) The demolition of a building.
- (2) The moving of a building.
- (3) The construction of an addition to a building.
- (4) The construction of a new building.

SECTION 5. IC 36-7-11-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) This section applies to the following towns located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000):**

- (1) A town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200).
- (2) A town having a population of less than one thousand five hundred (1,500).

(b) The towns described in subsection (a) may enter into an interlocal agreement under IC 36-1-7 to establish a joint historic district under this chapter. An ordinance entering into the interlocal agreement must provide for the following membership of a joint historic preservation commission to administer the joint historic district:

- (1) An individual appointed by the legislative body of the county described in subsection (a).
- (2) An individual appointed by the convention and visitors bureau of the county described in subsection (a).
- (3) An individual appointed by the town council of a town described in subsection (a)(1).
- (4) An individual appointed by the town council of a town described in subsection (a)(2).
- (5) An individual appointed by the Historic Landmarks Foundation of Indiana.
- (6) The owner of a historic resort hotel located in a town described in subsection (a)(1) or the owner's designee.
- (7) The owner of a historic resort hotel located in a town



described in subsection (a)(2) or the owner's designee.

(c) The members described in subsection (b)(1) through (b)(5) shall each serve for a term of three (3) years. However, the terms of the original voting members may be for one (1) year, two (2) years, or three (3) years in order for the terms to be staggered, as provided by the ordinance. A vacancy shall be filled for the duration of the term by the original appointing authority.

(d) The ordinance may provide qualifications for members of the commission described in subsection (b)(1) and (b)(4). In addition, the members appointed under subsection (b)(1) through (b)(4) must be residents of the county described in subsection (a) that are interested in the preservation and development of historic areas. The members of the commission should include professionals in the tourism industry and professionals in the disciplines of architectural history, planning, and other disciplines related to historic preservation, to the extent that those professionals are available in the community. The ordinance may also provide for the appointment of advisory members that the legislative body considers appropriate.

(e) Each member of the commission must, before beginning the discharge of the duties of the member's office, do the following:

(1) Take an oath that the member will faithfully execute the duties of the member's office according to Indiana law and rules adopted under Indiana law.

(2) Provide a bond to the state that:

(A) is approved by the Indiana gaming commission;

(B) is for twenty-five thousand dollars (\$25,000); and

(C) is, after being executed and approved, recorded in the office of the secretary of state.

(f) The ordinance may:

(1) designate an officer or employee of a town described in subsection (a) to act as administrator;

(2) permit the commission to appoint an administrator who shall serve without compensation except for reasonable expenses incurred in the performance of the administrator's duties; or

(3) provide that the commission act without the services of an administrator.

(g) Each member of the commission shall be paid a monthly salary of five hundred dollars (\$500).

(h) The commission shall elect from its membership a chairperson and vice chairperson, who shall serve for one (1) year



and may be reelected.

(i) The commission shall adopt rules consistent with this chapter for the transaction of its business. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings. All meetings of the commission must be open to the public, and a public record of the commission's resolutions, proceedings, and actions must be kept. If the commission has an administrator, the administrator shall act as the commission's secretary. If the commission does not have an administrator, the commission shall elect a secretary from its membership.

(j) The commission shall hold regular meetings, at least monthly, except when it has no business pending.

(k) A decision of the commission is subject to judicial review under IC 4-21.5-5 as if it were a decision of a state agency.

(l) Money acquired by the historic preservation commission:

(1) is subject to the laws concerning the deposit and safekeeping of public money; and

(2) must be deposited under the advisory supervision of the state board of finance in the same way and manner, at the same rate of interest, and under the same restrictions as other state money.

(m) The money of the historic preservation commission and the accounts of each officer, employee, or other person entrusted by law with the raising, disposition, or expenditure of the money or part of the money are subject to the following:

(1) Examination by the state board of accounts.

(2) The same penalties and the same provision for publicity that are provided by law for state money and state officers.

SECTION 6. IC 36-7-11-4.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.6. An ordinance that establishes a historic preservation commission under section 4 or 4.5 of this chapter may:

(1) authorize the commission to:

(A) acquire by purchase, gift, grant, bequest, devise, or lease any real or personal property, including easements, that is appropriate for carrying out the purposes of the commission;

(B) hold title to real and personal property; and

(C) sell, lease, rent, or otherwise dispose of real and personal property at a public or private sale on the terms and conditions that the commission considers best; and

(2) establish procedures that the commission must follow in acquiring and disposing of property.

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SECTION 7. IC 36-7-11-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 23. (a) This section applies to a historic preservation commission established by section 4.5 of this chapter.**

(b) The commission shall designate a fiscal agent who must be the fiscal officer of one (1) of the towns described in section 4.5(a) of this chapter.

(c) The commission may do the following:

(1) Employ professional staff to assist the commission in carrying out its duties under this chapter.

(2) Engage consultants, attorneys, accountants, and other professionals necessary to carry out the commission's duties under this chapter.

(3) Enter contracts to carry out the commission's duties under this chapter.

SECTION 8. IC 36-7-11.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 11.4. Community Trust Fund

Sec. 1. This chapter applies to a historic district established by IC 36-7-11-4.5.

Sec. 2. As used in this chapter, "fund" refers to the community trust fund established by section 4 of this chapter.

Sec. 3. As used in this chapter, "historic preservation commission" refers to the historic preservation commission described in IC 36-7-11-4.5.

Sec. 4. (a) The community trust fund is established.

(b) The fund consists of the following:

(1) Money disbursed from the historic preservation commission.

(2) Donations.

(3) Interest and dividends on assets of the fund.

(4) Money transferred to the fund from other funds.

(5) Money from any other source.

Sec. 5. (a) The historic preservation commission shall manage and develop the fund and the assets of the fund.

(b) The historic preservation commission shall do the following:

(1) Establish a policy for the investment of the fund's assets.

(2) Perform other tasks consistent with prudent management and development of the fund.

Sec. 6. (a) Subject to the investment policy of the historic preservation commission, the fiscal agent appointed by the historic

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1 preservation commission shall administer the fund and invest the
2 money in the fund.

3 (b) The expenses of administering the fund and implementing
4 this chapter shall be paid from the fund.

5 (c) Money in the fund that is not currently needed to meet the
6 obligations of the fund may be invested in the same manner as
7 other public funds are invested. Interest that accrues from these
8 investments shall be deposited in the fund.

9 (d) Money in the fund at the end of a state fiscal year does not
10 revert to the state general fund.

11 Sec. 7. (a) The historic preservation commission has the sole
12 authority to allocate money from the fund for the following
13 purposes:

14 (1) The preservation, restoration, maintenance, operation,
15 and development of the historic resort hotel located in a town
16 having a population of more than one thousand five hundred
17 (1,500) but less than two thousand two hundred (2,200)
18 located in a county having a population of more than nineteen
19 thousand three hundred (19,300) but less than twenty
20 thousand (20,000).

21 (2) The preservation, restoration, maintenance, operation,
22 and development of the historic resort hotel located in a town
23 having a population of less than one thousand five hundred
24 (1,500) located in a county having a population of more than
25 nineteen thousand three hundred (19,300) but less than twenty
26 thousand (20,000).

27 (3) Infrastructure projects in the surrounding community.

28 (4) Historic preservation or restoration projects in the
29 community.

30 (5) Other projects designed to enhance the historic character
31 of the community.

32 (b) The historic preservation commission shall allocate money
33 to the historic resort hotels described in subsection (a) in equal
34 amounts. The historic preservation commission may not allocate
35 more than ninety percent (90%) of the money allocated under
36 subsection (a) to the historic resort hotels.

37 Sec. 8. The historic preservation commission shall prepare an
38 annual report concerning the fund and submit the report to the
39 legislative council before October 1 of each year. The report is a
40 public record.

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